

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:)	
)	
930 Port Street, Inc.)	
28102 Baileys Neck Road)	U.S. EPA Docket Number
Easton, MD 21601)	RCRA-03-2020-0069
RESPONDENT,)	
)	Proceeding Under Section 9006 of the
)	Resource Conservation and Recovery
)	Act, as amended, 42 U.S.C. Section
Easton Point)	6991e
930 Port Street)	
Easton, MD 21601)	
)	
)	
FACILITY,)	
)	
)	
)	
)	

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director for the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III ("Complainant") and 930 Port Street, Inc. ("Respondent"), pursuant to Section 9006 of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. §§ 6991e, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. Section 9006 of RCRA authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated it to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the "CAFO") resolve Complainant's civil penalty claims against

Respondent under Section 9006 of RCRA (or the "Act"), and the State of Maryland's federally authorized underground storage tank program for the violations alleged herein.

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency ("EPA") has jurisdiction over the above-captioned matter, as described in paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. §§ 22.1(a)(5), 22.13(b) and 18(b)(2) and (3).
5. On September 20, 2018, EPA sent a communication to the State of Maryland, through the Maryland Department of the Environment ("MDE"), giving prior notice of this action in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).

GENERAL PROVISIONS

6. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth in this CAFO.
7. Except as provided in Paragraph 5, above, the Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
8. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
9. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CAFO and waives its right to appeal the accompanying Final Order.
10. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
11. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. In accordance with 40 C.F.R. § 22.13(b) and .18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
13. At all times relevant to this CAFO, Respondent has been the "owner" and/or "operator," as those terms are defined in Section 9001(3) and (4) of RCRA, 42 U.S.C. § 6991(3) and (4), and COMAR § 26.10.02.04B(37) and (39), of the "underground storage tanks" ("USTs") and "UST systems" as those terms are defined in Section 9001(10) of RCRA, 42 U.S.C. § 6991(10), and COMAR § 26.10.02.04B(64) and (66), located at a facility known as Easton Point located at 930 Port Street, Easton, Maryland (the "Facility").
14. Respondent is a "person" as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and COMAR § 26.10.02.04B(40).
15. On June 13, 2018, EPA performed a Compliance Evaluation Inspection ("CEI") at the Facility. At the time of the June 13, 2018 CEI, and at all times relevant to the violations alleged herein, five (5) USTs were located at the Facility as described in the following subparagraphs:
 - A. A four thousand (4,000) gallon single-walled cathodically protected steel tank that was installed in or about 1994, and that, at all times relevant hereto, routinely contained and was used to store 93 Octane (premium ethanol), a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and COMAR § 26.10.02.04B(48) (hereinafter "UST No. 1");
 - B. A four thousand (4,000) gallon single-walled cathodically protected steel tank that was installed in or about 1994, and that, at all times relevant hereto, routinely contained and was used to store off-road diesel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and COMAR § 26.10.02.04B(48) (hereinafter "UST No. 2");
 - C. An eight thousand (8,000) gallon single-walled cathodically protected steel tank that was installed in or about 1994, and that, at all times relevant hereto, routinely contained and was used to store on-road diesel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and COMAR § 26.10.02.04B(48) (hereinafter "UST No. 3");
 - D. An eight thousand (8,000) gallon single-walled cathodically protected steel tank that was installed in or about 1994, and that, at all times relevant

hereto, routinely contained and was used to store 91 Octane (premium non-ethanol), a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and COMAR § 26.10.02.04B(48) (hereinafter "UST No. 4"), and

- E. An eight thousand (8,000) gallon single-walled cathodically protected steel tank that was installed in or about 1995, and that, at all times relevant hereto, routinely contained and was used to store 87 Octane gasoline, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and COMAR § 26.10.02.04B(48) (hereinafter "UST No. 5").

16. At all times relevant to the violations alleged herein, USTs Nos. 1 through 5 have been "petroleum UST systems" and "new tank systems" as these terms are defined in COMAR § 26.10.02.04B(43) and (31), respectively.

17. USTs Nos. 1 through 5 are and were, at all times relevant to applicable violations alleged in this CAFO, used to store "regulated substance(s)" at Respondent's Facility, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and COMAR § 26.10.02.04B(48), and have not been "empty" as that term is defined at COMAR § 26.10.10.01A.

COUNT 1

(Failure to perform release detection on USTs)

18. The allegations of Paragraphs 1 through 17 of this CAFO are incorporated herein by reference.

19. Pursuant to COMAR § 26.10.05.01A and C, owners and operators of new and existing UST systems must provide a method or combination of methods of release detection monitoring that meets the requirements described therein.

20. COMAR § 26.10.05.02B provides, in pertinent part, that USTs shall be monitored at least every 30 days for releases using one of the methods listed in COMAR § 26.10.05.04E-I, except that:

- (1) UST systems that meet the performance standards in COMAR §§ 26.10.03.01 (Performance Standards for New UST Systems) and .02 (Upgrading of Existing UST Systems), and the monthly inventory control requirements in COMAR § 26.10.05.04B or C (Inventory Control or Manual Tank Gauging) shall use tank tightness testing, conducted in accordance with COMAR § 26.10.05.04D (Tank Tightness Test), at least every 5 years until December 22, 1998, or until 10 years after the UST is

installed or upgraded under COMAR § 26.10.03.02B (Tank Upgrading Requirements); and

- (2) UST systems that do not meet the performance standards in COMAR §§ 26.10.03.01 (Performance Standards for New UST Systems) and .02 (Upgrading of Existing UST Systems), may use monthly inventory controls, conducted in accordance with COMAR § 26.10.05.04B or C (Inventory Control or Manual Tank Gauging) and annual tank tightness testing, conducted in accordance with COMAR § 26.10.05.04D (Tank Tightness Test) until December 22, 1998, when the tank must be upgraded under COMAR § 26.10.03.02 (Tank Upgrading Requirements) or permanently closed under COMAR § 26.10.10.02; and
- (3) Tanks with a capacity of 550 gallons or less and not metered may use weekly tank gauging, conducted in accordance with COMAR § 26.10.05.04C.

- 21. At all times relevant to the violation alleged herein, the method of release detection selected by Respondent for the UST No. 1 through 5 was automatic tank gauging in accordance with COMAR § 26.10.05.04E.
- 22. From August 26, 2016 until October 2, 2017, from December 6, 2017 until April 2, 2018, and from July 11, 2018 until August 6, 2018, Respondent failed to perform automatic tank gauging for the UST No. 1 in accordance with COMAR § 26.10.05.04E.
- 23. From August 26, 2016 until January 2, 2017, from February 2, 2017 until April 10, 2017, from August 3, 2017 until October 23, 2017, and from November 30, 2017 through April 22, 2018, Respondent failed to perform automatic tank gauging for the UST No. 2 in accordance with COMAR § 26.10.05.04E.
- 24. From August 26, 2016 until February 20, 2017, from March 27, 2017 until January 15, 2018, from February 15, 2018 until April 23, 2018, and from September 27, 2018 until February 18, 2019, Respondent failed to perform automatic tank gauging for the UST No. 3 in accordance with COMAR § 26.10.05.04E.
- 25. From August 26, 2016 until June 19, 2017, from September 21, 2017 until December 5, 2017, from January 6, 2018 until April 22, 2018, and from February 7, 2019 until March 31, 2019, Respondent failed to perform automatic tank gauging for the UST No. 4 in accordance with COMAR § 26.10.05.04E.
- 26. From August 26, 2016 until June 19, 2017, and from August 3, 2017 until April 22, 2018, Respondent failed to perform automatic tank gauging for the UST No. 5 in accordance with COMAR § 26.10.05.04E.

27. During the periods of time indicated in Paragraphs 22 through 26, above, Respondent did not use any of the other release detection methods specified in COMAR § 26.10.05.02B(1)-(3) and/or COMAR § 26.10.05.04A on USTs Nos. 1 through 5 located at the Facilities.
28. Respondent's acts and/or omissions as alleged in Paragraphs 21 through 27, above, constitute violations by Respondent of COMAR § 26.10.05.01A and .02B.

COUNT II

(Failure to perform automatic line leak detector testing
annually on USTs)

29. The allegations of Paragraphs 1 through 28 of the CA are incorporated herein by reference.
30. COMAR § 26.10.05.02C(2) provides, in pertinent part, that underground piping that conveys regulated substances under pressure shall:
- A. Be equipped with an automatic line leak detector conducted in accordance with COMAR § 26.10.05.05B; and
 - B. Have an annual line tightness test conducted in accordance with COMAR § 26.10.05.05C or have monthly monitoring conducted in accordance with COMAR § 26.10.05.05D.
31. COMAR § 26.10.05.05B provides, in pertinent part, that an annual test of the operation of the leak detector shall be conducted in accordance with the manufacturer's requirements.
32. Respondent failed to test annually the automatic line leak detector from September 1, 2017 until March 23, 2018 for USTs Nos. 1 and 3.
33. Respondent failed to test annually the automatic line leak detector from July 26, 2017 until March 23, 2018 for USTs Nos. 2, 4, and 5.
34. From September 1, 2017 until March 23, 2018, the piping for USTs Nos. 1 and 3 was underground and routinely conveyed regulated substances under pressure.
35. From July 26, 2017 until March 23, 2018, the piping for USTs Nos. 2, 4, and 5 was underground and routinely conveyed regulated substances under pressure.

36. Respondent's acts and/or omissions as alleged in Paragraphs 31 through 35, above, constitute violations by Respondent of COMAR § 26.10.05.02C(2)(a) and COMAR § 26.10.05.05B.

COUNT III

(Failure to perform line tightness testing or monthly monitoring
on piping for USTs)

37. The allegations of Paragraphs 1 through 36 of this CAFO are incorporated herein by reference.
38. Pursuant to COMAR § 26.10.05.01A and C, owners and operators of new and existing UST systems must provide a method or combination of methods of release detection monitoring that meets the requirements described therein.
39. COMAR § 26.10.05.02C(2) provides, in pertinent part, that underground piping that conveys regulated substances under pressure shall:
- a. Be equipped with an automatic line leak detector conducted in accordance with COMAR § 26.10.05.05B; and
 - b. Have an annual line tightness test conducted in accordance with COMAR § 26.10.05.05C or have monthly monitoring conducted in accordance with COMAR § 26.10.05.05D.
40. Respondent failed to perform an annual line tightness testing in accordance with COMAR § 26.10.05.05C or have monthly monitoring conducted in accordance with COMAR § 26.10.05.05D for the underground piping associated with USTs Nos. 1 and 3 from September 1, 2017 until March 23, 2018.
41. Respondent failed to perform an annual line tightness testing in accordance with COMAR § 26.10.05.05C or have monthly monitoring conducted in accordance with COMAR § 26.10.05.05D for the underground piping associated with USTs Nos. 2, 4 and 5 from June 27, 2017 until March 23, 2018.
42. From September 1, 2017 until March 23, 2018, the piping for USTs Nos. 1 and 3 was underground and routinely conveyed regulated substances under pressure.
43. From June 27, 2017 until March 23, 2018, the piping for USTs Nos. 2, 4, and 5 was underground and routinely conveyed regulated substances under pressure.
44. Respondent's acts and/or omissions as alleged in Paragraphs 40 through 43, above, constitute violations by Respondent of COMAR § 26.10.05.02C(2)(b).

COUNT IV

(Failure to report a suspected release from UST No.3)

45. The allegations of Paragraphs 1 through 44 of this CAFO are incorporated herein by reference.
46. COMAR § 26.10.08.01A provides that if a storage system fails a test for tightness or is otherwise determined to be leaking, the person conducting the test, the owner, and the person-in-charge of the storage system shall notify the Maryland Department of Environment ("MDE") within two (2) hours.
47. COMAR § 26.10.08.01B(3) provides, in pertinent part, that owners or operators of UST systems shall report to the MDE pursuant to COMAR § 26.10.08.01A if the monitoring results from a release detection method required under COMAR § 26.10.05.02 (Requirements for Petroleum UST Systems) indicate a release may have occurred, unless the monitoring device is found to be defective, and is immediately repaired, recalibrated, or replaced, and additional monitoring does not confirm the initial result.
48. From February 20, 2017 until February 27, 2017, the automatic tank gauging system provided a fail test result indicating that a release may have occurred from UST No. 3 and Respondent did not find the monitoring devices in issue to be defective and/or Respondent did not immediately repair, recalibrate or replace any such defective device and thereafter conduct additional monitoring, which did not confirm the initial monitoring result from a release detection method required under COMAR § 26.10.05.02.
49. Respondent did not report within 2 hours to MDE the suspected release as described in Paragraph 45, above.
50. Respondent's acts and/or omissions as alleged in Paragraphs 48 and 49, above, constitute a violation by Respondent of COMAR § 26.10.08.01.

COUNT V

(Failure to investigate a suspected release from UST No.3)

51. The allegations of Paragraphs 1 through 50 of this CAFO are incorporated herein by reference.
52. COMAR § 26.10.08.01B(3) provides, in pertinent part, that owners or operators of UST systems shall report to the MDE and follow the procedures in COMAR § 26.10.08.03 (Release Investigation and Confirmation Steps) if monitoring results from a release detection method required under COMAR § 26.10.05.02 (Requirements for Petroleum UST Systems) indicate a release may have occurred, unless the monitoring device is found

to be defective, and is immediately repaired, recalibrated, or replaced, and additional monitoring does not confirm the initial result.

53. COMAR § 26.10.08.03 provides, in pertinent part, that owners and operators shall immediately investigate and confirm all suspected releases of regulated substances requiring reporting under COMAR § 26.10.08.01 within 72 hours or another reasonable time period specified by MDE, unless corrective action is initiated by the owner and/or operator in accordance with COMAR § 26.10.09.
54. From February 20, 2017 until February 27, 2017, the automatic tank gauging system provided a fail test result indicating that a release may have occurred from UST No. 3 and Respondent did not find the monitoring devices in issue to be defective and/or Respondent did not immediately repair, recalibrate or replace any such defective device and thereafter conduct additional monitoring, which did not confirm the initial monitoring result from a release detection method required under COMAR § 26.10.05.02.
55. The incident described in Paragraph 54, above, was a suspected release which was required to be reported to MDE under COMAR § 26.10.08.01 and immediately investigated under COMAR § 26.10.08.03.
56. Respondent failed to undertake an immediate investigation and confirm the suspected release of regulated substances from UST No. 3 within the time and manner prescribed by COMAR § 26.10.08.03.
57. Respondent's acts and/or omissions as alleged in Paragraphs 54 through 56, above, constitute a violation by Respondent of COMAR § 26.10.08.01 and 03.

COUNT VI

(Failure to test cathodic protection system on USTs)

58. The allegations of Paragraphs 1 through 57 of this CAFO are incorporated herein by reference.
59. COMAR § 26.10.04.02D(1) provides that all UST systems equipped with cathodic protection system must be inspected for proper operation within 6 months of installation and at least every year thereafter by a qualified cathodic protection tester.
60. USTs Nos. 1 through 5 are and were, at the time of the violations alleged herein, "steel UST systems with corrosion protection" and were used to store regulated substances within the meaning of COMAR § 26.10.04.02D.

61. Respondent was approximately 7 months overdue in testing the cathodic protection system as required by COMAR § 26.10.04.02D(1) for the USTs Nos. 1 through 5 at the Facility from June 17, 2017 until February 1, 2018.
62. Respondent's act and/or omission as alleged in Paragraphs 60 and 61, above, constitute violations by Respondent of COMAR § 26.10.04.02D(1).

CIVIL PENALTY

63. In settlement of EPA's claims for civil penalties assessable for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **Sixty Thousand Dollars (\$60,000.00)** which Respondent shall be liable to pay in accordance with the terms set forth below.
64. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c), requires EPA to take into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's Interim Consolidated Enforcement Penalty Policy for Underground Storage Tank Regulations ("UST Penalty Guidance") which reflects the statutory penalty criteria and factors set forth Section 9006(c) of RCRA, and the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.
65. Payment of the civil penalty amount, and any associated interest, administrative fee, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:
 - a. All payments by Respondent shall include reference Respondent's name and address, and the Docket Number of this action, *i.e.*, **RCRA-03-2020-0069**;
 - b. All checks shall be made payable to "**United States Treasury**";
 - c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

- d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

- e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously to:

Louis Ramalho (3RC40)
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, PA 19103-2029
Ramalho.louis@epa.gov

66. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this Consent Agreement and the attached Final Order shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
67. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed CAFO. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed CAFO, with a date stamp indicating the date on which the CAFO was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
68. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of the fully executed and filed CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R § 13.11(a).
69. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives* ...

Case Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

70. *LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).*
71. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this CAFO.

GENERAL SETTLEMENT CONDITIONS

72. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and represents that, to the best of Respondent's knowledge and belief, this CAFO does not contain any confidential business information or personally identifiable information from Respondent.
73. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this CAFO, including information about respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

74. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief that it currently is complying with applicable provisions of RCRA Subtitle I, 40 C.F.R. Part 280, and the State of Maryland's federally authorized underground storage tank program, COMAR § 26.10.02 *et seq.*

OTHER APPLICABLE LAWS

75. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This CAFO does not constitute a waiver, suspension or modification of the requirements of Subtitle I of RCRA or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

76. This CAFO resolves only EPA's claims for civil penalties for the specific violation[s] alleged against Respondent in this CAFO. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this CAFO after its effective date.

EXECUTION /PARTIES BOUND

77. This CAFO shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this CAFO.

EFFECTIVE DATE

78. The effective date of this CAFO is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

79. This CAFO constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this CAFO.

For Respondent:

Date: _____

930 Port Street, Inc.
Timothy M. Miller
President

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: _____

By: _____

Karen Melvin
Director, Enforcement and Compliance
Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

Date: _____

By: _____

Louis F. Ramalho
Sr. Assistant Regional Counsel
U.S. EPA – Region III